

G. Text of Proposed Amendment for JuCR 7.8 (in legislative bill format).

**JuCR 7.8
TIME FOR ADJUDICATORY HEARING**

(a) General Provisions.

(1) Responsibility of Court. It shall be the responsibility of the court to ~~((insure))~~ ensure an adjudicatory hearing in accordance with the provisions of this rule to each person charged with a juvenile offense ~~((an adjudicatory hearing in accordance with the provisions of this rule))~~.

(2) Definitions. For purposes of this rule:

(i) “Pending charge” means the charge for which the allowable time for trial is being computed.

(ii) “Related charge” means a charge based on the same conduct as the pending charge that is ultimately filed in juvenile court.

(iii) “Appearance” means the juvenile’s physical presence in the court where the pending charge was filed. Such presence constitutes appearance only if (A) the prosecutor was notified of the presence and (B) the presence is contemporaneously noted on the record under the cause number of the pending charge.

(iv) “Arraignment” means the date determined under JuCR 7.6 and CrR 4.1(b).

(v) “Held in detention” means held in the custody of a detention facility pursuant to the pending charge. Such detention excludes any period in which a juvenile is on electronic home monitoring, is being held on an unrelated charge or hold, or is serving a sentence of confinement.

(3) Construction. The allowable time for the adjudicatory hearing shall be computed in accordance with this rule. If a hearing is timely under the language of this rule but was delayed by circumstances not addressed in this rule or JuCR 7.6, the pending charge shall not be dismissed unless the juvenile’s constitutional right to a speedy trial was violated.

(4) Related Charges. The computation of the allowable time for the adjudicatory hearing on a pending charge shall apply equally to all related charges.

(5) Reporting of Dismissals and Untimely Hearings. The court shall report to the Administrative Office of the Courts, on a form determined by that office, any case in which

(i) the court dismissed a charge on a determination pursuant to section (h) that the charge had not been brought to hearing within the time limit required by this rule, or

(ii) the time limits would have been violated absent the cure period authorized by section (g).

(b) Time Limits for Adjudicatory Hearing.

(1) Juvenile Held in Detention. ~~((The adjudicatory hearing on a juvenile offense shall begin within 60 days following the juvenile's arraignment in juvenile court on the charges contained in the information. If the alleged juvenile offender is held in detention pending the adjudicatory hearing and would be at liberty but for the current charges, the hearing shall begin within 30 days following the juvenile's arraignment in juvenile court on the charges contained in the information.))~~ A juvenile who is held in detention shall be brought to hearing within the longer of

(i) 30 days after the commencement date specified in this rule, or

(ii) the time specified under subsection (b)(5).

(2) Juvenile Not Held in Detention. A juvenile who is not held in detention shall be brought to hearing within the longer of

(i) 60 days after the commencement date specified in this rule, or

(ii) the time specified in subsection (b)(5).

(3) Release of Juvenile. If a juvenile is released from detention before the 30 day time limit has expired, the limit shall be extended to 60 days.

(4) Return to Detention following Release. If a juvenile not held in detention at the time the hearing date was set but is subsequently returned to detention on the same or related charge, the 60-day limit shall continue to apply. If the juvenile is held in detention when the hearing is reset following a new commencement date, the 30-day limit shall apply.

(5) Allowable Time after Excluded Period. If any period of time is excluded pursuant to section (e), the allowable time for the adjudicatory hearing shall not expire earlier than 15 days after the end of that excluded period.

~~**((c) Setting of Hearing Date—Notice to Parties—Objection to Hearing Date—Waiver.** CrR 3.3(f) applies in juvenile court. The court shall notify the juvenile of the hearing date in accordance with CrR 3.3(f), and any party who objects to the hearing date must do so by motion within 10 days after the notice is mailed or otherwise given. The failure of a party to make a timely objection shall be a waiver of the objection to the hearing date.))~~

(c) Commencement date.

(1) Initial Commencement Date. The initial commencement date shall be the date of arraignment as determined under JuCR 7.6 and CrR 4.1.

(2) *Resetting of Commencement Date.* On occurrence of one of the following events, a new commencement date shall be established, and the elapsed time shall be reset to zero. If more than one of these events occurs, the commencement date shall be the latest of the dates specified in this subsection.

(i) *Waiver.* The filing of a written waiver of the juvenile's rights under this rule signed by the juvenile. The new commencement date shall be the date specified in the waiver, which shall not be earlier than the date on which the waiver was filed. If no date is specified, the commencement date shall be the date of the hearing contemporaneously or subsequently set by the court.

(ii) *Failure to Appear.* The failure of the juvenile to appear for any proceeding at which the juvenile's appearance was required. The new commencement date shall be the date of the juvenile's next appearance.

(iii) *New Adjudicatory Hearing.* The entry of an order granting a mistrial or new adjudicatory hearing or allowing the juvenile to withdraw a plea of guilty. The new commencement date shall be the date the order is entered.

(iv) *Appellate Review or Stay.* The acceptance of review or grant of a stay by an appellate court. The new commencement date shall be the date of the juvenile's appearance that next follows the receipt by the clerk of the juvenile court of the mandate or written order terminating review or stay.

(v) *Collateral Proceeding.* The entry of an order granting a new adjudicatory hearing pursuant to a person restraint petition, a habeas corpus proceeding, or a motion to vacate judgment. The new commencement date shall be the date of the juvenile's appearance that next follows either the expiration of the time to appeal such order or the receipt by the clerk of the juvenile court of notice of action terminating the collateral proceeding, whichever comes later.

(vi) *Change of Venue.* The entry of an order granting a change of venue. The new commencement date shall be the date of the order.

(vii) *Disqualification.* The disqualification of the judge, defense attorney, or prosecuting attorney. The new commencement date shall be the date of the disqualification.

(d) Setting of Hearing Date—Notice—Objections—Loss of Right to Object.

(1) *Initial Setting of Hearing Date.* The court shall, within 15 days of the juvenile's actual arraignment in juvenile court, set a date for the adjudicatory hearing which is within the time limits prescribed by this rule and notify counsel for each party of the date set. If a juvenile is not represented by counsel, the notice shall be given to the juvenile and may be mailed to the

juvenile's last known address. The notice shall set forth the proper date of the juvenile's arraignment and the date set for the hearing.

(2) *Resetting of Hearing Date.* When the court determines that the hearing date should be reset for any reason, including but not limited to the applicability of a new commencement date pursuant to subsection (c)(2) or a period of exclusion pursuant to section (e), the court shall set a new date for the hearing which is within the time limits prescribed and notify each party of the date set.

(3) *Objection to Hearing Date.* A party who objects to the date set upon the ground that it is not within the time limits prescribed by this rule must, within 10 days after the notice is mailed or otherwise given, move that the court set an adjudicatory hearing within those time limits. Such motion shall be promptly noted for hearing by the moving party in accordance with local procedures. A party who fails, for any reason, to make such a motion shall lose the right to object that an adjudicatory hearing commenced on such a date is not within the time limits prescribed by this rule.

(4) *Loss of Right to Object.* If a hearing date is set outside the time allowed by this rule, but the defendant lost the right to object to that date pursuant to subsection (d)(3), that date shall be treated as the last allowable date for the adjudicatory hearing. A later hearing date shall be timely only if the commencement date is reset pursuant to subsection (c)(2) or there is a subsequent excluded period pursuant to section (e) and subsection (b)(5).

(e) Excluded Periods. The following periods shall be excluded in computing the time for the adjudicatory hearing:

(1) *Competency Proceedings.* All proceedings related to the competency of the alleged juvenile (~~offender~~) to participate in the hearing on the pending charge, beginning on the date when the competency examination is ordered and terminating when the court enters a written order finding the juvenile to be competent.

(2) *Proceedings on Unrelated Charges.* (~~Preliminary proceedings and an adjudicatory hearing on another charge.~~) Arraignment, pre-adjudicatory hearing proceedings, adjudicatory hearing, and disposition hearing on an unrelated charge.

(3) *Continuances.* Delay granted by the court pursuant to section (~~(e)~~) (f).

(4) *Period between Dismissal and Refiling.* The time between the dismissal of a charge and the refiling of the same or related charge.

(5) *Disposition of Related Charge.* The period between the commencement of an adjudicatory hearing or the entry of a plea of guilty on one charge and the juvenile's arraignment in superior court on a related charge. (~~The time between a motion for revision of a court commissioners ruling and the entry of a decision by a judge.~~)

(6) Juvenile Subject to Foreign or Federal Custody or Conditions. The time during which a juvenile is detained outside the state of Washington or in a federal facility and the time during which a juvenile is subject to conditions of release not imposed by a court of the State of Washington. ~~((The time required for determining the capacity of the juvenile offender.))~~

(7) Unavoidable or Unforeseen Circumstances. Unavoidable or unforeseen circumstances affecting the time for the adjudicatory hearing beyond the control of the court or of the parties. This exclusion also applies to the cure period of section (g).

(8) Motion for Revision. When a motion for revision of a court commissioner's ruling is filed, the time between the court commissioner's ruling and an order deciding the motion.

~~((f))~~ **(f) Continuances.** Continuances or other delays may be granted as follows:

~~(1) On motion of the alleged juvenile offender on a showing of good cause.~~

~~(2) On motion of the prosecuting attorney if:~~

~~(i) the alleged juvenile offender consents to a continuance or delay and good cause is shown; or~~

~~(ii) the States evidence is presently unavailable, the prosecution has exercised due diligence, and there are reasonable grounds to believe that it will be available within a reasonable time; or~~

~~(iii) required in the due administration of justice and the alleged juvenile offender will not be substantially prejudiced in the presentation of his or her defense.~~

~~(3) The court on its own motion may continue the case when required in the due administration of justice and the alleged juvenile offender will not be substantially prejudiced in the presentation of his or her defense.)~~

(1) Written Agreement. Upon written agreement of the parties, which must be signed by the alleged juvenile offender or all the alleged offenders, the court may continue the hearing date to a specified date.

(2) Motion by the Court or a Party. On motion of the court or a party, the court may continue the hearing to a specified date when such continuance is required in the administration of justice and the juvenile will not be prejudiced in the presentation of his or her defense. The motion must be made before the time for the adjudicatory hearing has expired. The court must state on the record or in writing the reasons for the continuance. The bringing of such motion by or on behalf of any party waives that party's objection to the requested delay.

(g) Cure Period. The court may continue the case beyond the limits specified in section (b) on motion of the court or a party made within five days after the time for the adjudicatory

hearing has expired. Such a continuance may be granted only once in the case upon a finding on the record or in writing that the juvenile will not be substantially prejudiced in the presentation of his or her defense. The period of delay shall be for no more than 7 days for a juvenile who is held in detention, or 28 days for a juvenile not held in detention, from the date that the continuance is granted. The court may direct the parties to remain in attendance or be on-call for hearing assignment during the cure period.

~~((f))~~ **Absence of Alleged Juvenile Offender.** In the event the alleged juvenile offender is absent from the court and thereby unavailable for the adjudicatory hearing or for any preliminary proceeding at which his or her presence is required, the time period specified in section (b) shall start to accrue anew when the alleged juvenile offender is actually present in the county where the charge is pending, and his presence appears upon the record of the court.)

~~((g))~~ **(h) Dismissal With Prejudice.** ~~((If the adjudicatory hearing on a juvenile offense is not held within the time limits in this rule, the information shall be dismissed with prejudice.))~~ A charge not brought to adjudicatory hearing within the time limit determined under this rule shall be dismissed with prejudice. The State shall provide notice of dismissal to the victim and at the court's discretion shall allow the victim to address the court regarding the impact of the crime. No case shall be dismissed for time-to-hearing reasons except as expressly required by this rule, a statute, or the state or federal constitution.